

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

PERTAINS TO THE FOLLOWING CASE:

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

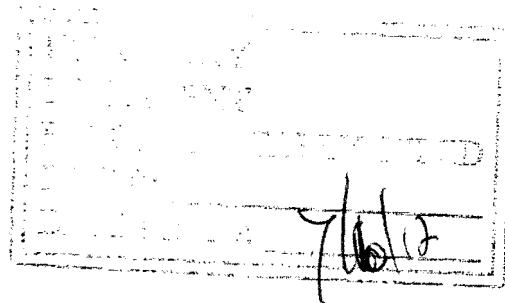
Plaintiff,

v.

ACCESS INTERNATIONAL
ADVISORS LTD. (f/k/a ALTERNATIVE
ADVISORS LIMITED),

Defendants.

12 Misc. 115 (JSR)



Adv. Pro. No. 10-05208 (BRL)

11 Civ. 7112 (JSR)

STIPULATION AND ORDER

JED S. RAKOFF, U.S.D.J.

WHEREAS, Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA") and the estate of Bernard L. Madoff ("Madoff"), filed a complaint (the "Complaint") in the Bankruptcy Court in the above-captioned adversary proceeding on December 3, 2010;

WHEREAS, defendants Hyposwiss Private Bank Genève S.A., Trotanoy Investment Company Ltd. and Palmer Fund Management Services Limited (the "Trotanoy Defendants") filed a motion in the District Court to withdraw the Bankruptcy Court reference ("Withdrawal Motion") on October 7, 2012, arguing, *inter alia*, that issues related to (i) the safe harbor provision of section 546(e) of the Bankruptcy Code; (ii) the Trustee's standing to assert common law claims; (iii) the Securities Litigation Uniform Standards Act ("SLUSA"); and (iv) the standard of "good faith" under sections 548(c) and/or 550(b) of the Bankruptcy Code, raised questions of non-bankruptcy federal law. The Trotanoy Defendants also argued that the District Court should permissively withdraw the reference for cause on grounds including the right to a jury trial; and

WHEREAS, defendant Access International Advisors Ltd. ("AIA Ltd.") (together with the Trotanoy Defendants, the "Defendants") moved to join the Withdrawal Motion on October 14, 2012 (the "Joinder"), adopting all arguments as raised by the Trotanoy Defendants; and

WHEREAS, prior to the resolution of the Withdrawal Motion, the Trustee entered into a settlement agreement with the Trotanoy Defendants, which was approved by the Bankruptcy Court by order, dated May 15, 2012, pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002(a)(3) and 9019(a) of the Federal Rules of Bankruptcy Procedure; and

WHEREAS, by order dated June 4, 2012, the Bankruptcy Court dismissed the Adversary Proceeding, with prejudice, as against the Trotanoy Defendants; and

WHEREAS, in consideration of the settlement and the dismissal, the Trotanoy Defendants agreed to withdraw the Withdrawal Motion; and

WHEREAS, AIA Ltd. was the sole remaining defendant in the Adversary Proceeding; and

WHEREAS, the Court has established consolidated briefing schedules relating to 11 U.S.C. § 546(e) (ECF No.119), the Trustee's standing to assert common law claims and regarding SLUSA preemption (ECF No. 114) and the "good faith" standard under either 11 U.S.C. § 548(c) or 11 U.S.C. § 550(b) (ECF No. 204) (together, the "Consolidated Briefing Orders").

WHEREAS, on June 22, 2012, this Court entered a Stipulation and Order between the Trustee and the Defendants, dismissing the Withdrawal Motion, closing the District Court's docket in this case as to the Trotanoy Defendants and stating that AIA Ltd. may participate in the briefing established pursuant to the Consolidated Briefing Orders; (*see* Stipulation and Order, *Picard v. Trotanoy Inv. Co. Ltd.*, No. 11 Civ. 7112 (JSR) (S.D.N.Y. June 22, 2012) (ECF No. 23) and No. 12 Misc. 115 (JSR) (S.D.N.Y. June 22, 2012) (ECF No. 194)); and

WHEREAS, on June 28, 2012, the Trustee, in accordance with Rule 7041(a)(1)(A)(ii) of the Federal Rules of Bankruptcy Procedure and Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, dismissed the Adversary Proceeding as to the sole remaining defendant, AIA Ltd., without prejudice, and without costs, fees or expenses to any party; (*see* Order, *Picard v. Access Int'l Advisors, et al.*, Adv. Pro. No. 10-05208 (BRL) (Bank. S.D.N.Y. June 28, 2012) (ECF No. 65)); and

WHEREAS, in consideration of the dismissal of the Adversary Proceeding in its entirety, AIA Ltd. agreed to withdraw the Joinder and that AIA Ltd. is removed from and may not participate in the briefing pursuant to the Consolidated Briefing Orders.

BASED ON THE FOREGOING, IT IS HEREBY:

ORDERED, that the Joinder is hereby withdrawn and the Clerk of the Court is ordered to

close item number three on the docket of 11 Civ. 7112.

ORDERED, that AIA Ltd. is removed from and may not participate in the briefing pursuant to the Consolidated Briefing Orders.

ORDERED, that docket 12 Civ. 7112 is hereby closed as to all Defendants, and all matters arising therein are deemed dismissed as to the Defendants pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

ORDERED, that this Stipulation and Order shall supersede the Stipulation and Order (*see Picard v. Trotanoy Inv. Co. Ltd.*, No. 11 Civ. 7112 (JSR) (S.D.N.Y. June 22, 2012) (ECF No. 23) and No. 12 Misc. 115 (JSR) (S.D.N.Y. June 22, 2012) (ECF No. 194)), solely as applied to AIA Ltd.

Dated: July 5, 2012
New York, New York



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SO ORDERED.

Dated: July 5, 2012
New York, New York


JED S. RAKOFF, U.S.D.J.